

MEMORANDUM

Transportation and Development – CC Memo No. 13-100

DATE: SEPTEMBER 12, 2013

TO: MAYOR AND COUNCIL

THRU: RICH DLUGAS, CITY MANAGER *RD*
MARSHA REED, ASSISTANT CITY MANAGER *MR*
R.J. ZEDER, TRANSPORTATION & DEVELOPMENT DIRECTOR *RJZ*
JEFF KURTZ, PLANNING ADMINISTRATOR *JK*
KEVIN MAYO, PLANNING MANAGER *KM*

FROM: SUSAN FIALA, CITY PLANNER *SF*

SUBJECT: LUP13-0007 AMERICA'S TACO SHOP

Request: Liquor Use Permit approval to sell and serve all spirituous liquor within a new restaurant and outdoor patio and to have live music outdoors under a Series 12 Restaurant License

Location: 3235 West Ray Road, Suite 1, southwest corner of Ray Road and the Loop 101

Applicant: Michael Moore

RECOMMENDATION

Upon finding the request to be consistent with the General Plan and Planned Area Development (PAD) zoning, Planning Commission and Planning Staff recommend approval for one (1) year, subject to conditions.

BACKGROUND

The subject new restaurant is locating in the suite formerly occupied by the Spicy Pickle restaurant within the Park at San Tan development located at the southwest corner of Ray Road and the Loop 101. The Park at San Tan includes the recently approved Alliance Bank, several restaurants, a salon, and multi-story office buildings. D'Arcy Ranch single-family subdivision is located west of the subject site and Parkside East subdivision is northwest of the site, across Ray Road.

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The request is for Liquor Use Permit approval to sell and serve all spirituous liquor within a new restaurant and outdoor patio and to have live music outdoors under a Series 12 Restaurant License.

The restaurant will be open from 9 a.m. until 8 p.m., seven days a week. The restaurant is approximately 2,098 square feet in area with an approximate 615 square foot outdoor patio. The outdoor patio is surrounded by a three foot high metal composite railing with two gates and is accessed directly from the restaurant. The restaurant will employ 25 to 30 full and/or part time employees. Restaurant seating will be 86 total with 54 seats indoors and 32 seats on the outdoor patio.

The request includes providing live acoustic music, with no amplification, played by one to three person groups to occur on the outdoor patio. The anticipated hours of live music would occur from 4 p.m. until 8 p.m. on Thursdays, Fridays, Saturdays, and on major holidays. Amplified music may occur within the new outdoor patio on selected holidays, such as Cinco de Mayo, and be allowed through a special events permitting process.

A 32 inch television, located indoors, will televise news and sports but without audio. Two indoor and outdoor speakers will be used for background music. The house speaker system will not be used to amplify any live music.

Due to the proximity to the single-family subdivision, Planning Staff has added conditions to address any potential noise concerns. Planning Staff recommends a one-year time limit to allow evaluation of compatibility of the live music with the surrounding residential and business developments.

A Series 12 Restaurant License allows the on-site sale of beer, wine, and spirits for on-premise consumption. Under a typical Series 12 license the establishment must derive at least 40 percent of its gross revenue from the sale of food and non-alcoholic beverages. See attached menu.

DISCUSSION

Planning Staff supports the request with conditions, finding that the restaurant with occasional live acoustic music can be appropriate at this location if it is controlled so as to not unreasonably disturb the surrounding businesses and residents. The one year approval time condition allows evaluation of the compatibility of the outdoor live music. Staff has informed the applicant of the concerns related to having the acoustic live music outdoors.

Planning Staff received two phone calls and one email concerning the proposed outdoor live music stating their opposition to the outdoor live music. One of the phone calls was followed by an email which discusses two issues including noise and home values, please see attachment.

PUBLIC / NEIGHBORHOOD NOTIFICATION

- This request was noticed in accordance with the requirements of the Chandler Zoning Code.
- A neighborhood meeting was held on July 8, 2013. Two residents attended and stated their concerns about the music.

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- The Police Department has been informed of the application and has no issues or concerns.
- Planning Staff has received two phone calls and email, see attached, from D'Arcy Ranch homeowners stating their opposition to the outdoor live music.

PLANNING COMMISSION VOTE REPORT

Motion to Approve.

In Favor: 7 Opposed: 0

The item was discussed by Planning Commission. Several residents of the D'Arcy Ranch subdivision voiced their concerns on the live music proposed to occur outdoors. The concerns included the amplification of the acoustic music and the decibel level.

The applicant agreed that only live acoustic music will occur on the outdoor patio with no amplification from Thursdays through Saturday. Amplified music may occur only during selected holidays, such as Cinco de Mayo, and be permitted through the special event permit process.

RECOMMENDED ACTION

Planning Commission and Planning Staff, upon finding consistency with the General Plan and Planned Area Development (PAD) zoning, recommend approval of LUP13-0007 AMERICA'S TACO SHOP for one year, subject to the following conditions:

1. The Use Permit granted is for a Series 12 license only, and any change of license shall require reapplication and new Use Permit approval.
2. The Use Permit is non-transferable to any other location.
3. Expansion or modification beyond the approved exhibits (Site Plan, Floor Plan, and Narrative) shall void the Use Permit and require new Use Permit application and approval.
4. The Use Permit shall remain in effect for one (1) year from the effective date of City Council approval. Continuation of the Use Permit beyond the expiration date shall require re-application to and approval by the City of Chandler.
5. The outdoor patio shall be maintained in a clean and orderly manner.
6. Live music within the outdoor patio area shall not occur past 8 p.m. and shall be limited to acoustic music without amplification.
7. The house speaker system shall not be utilized to amplify live music.
8. Music shall be controlled so as to not unreasonably disturb area residents and businesses and shall not exceed the ambient noise level as measured at the commercial property line.

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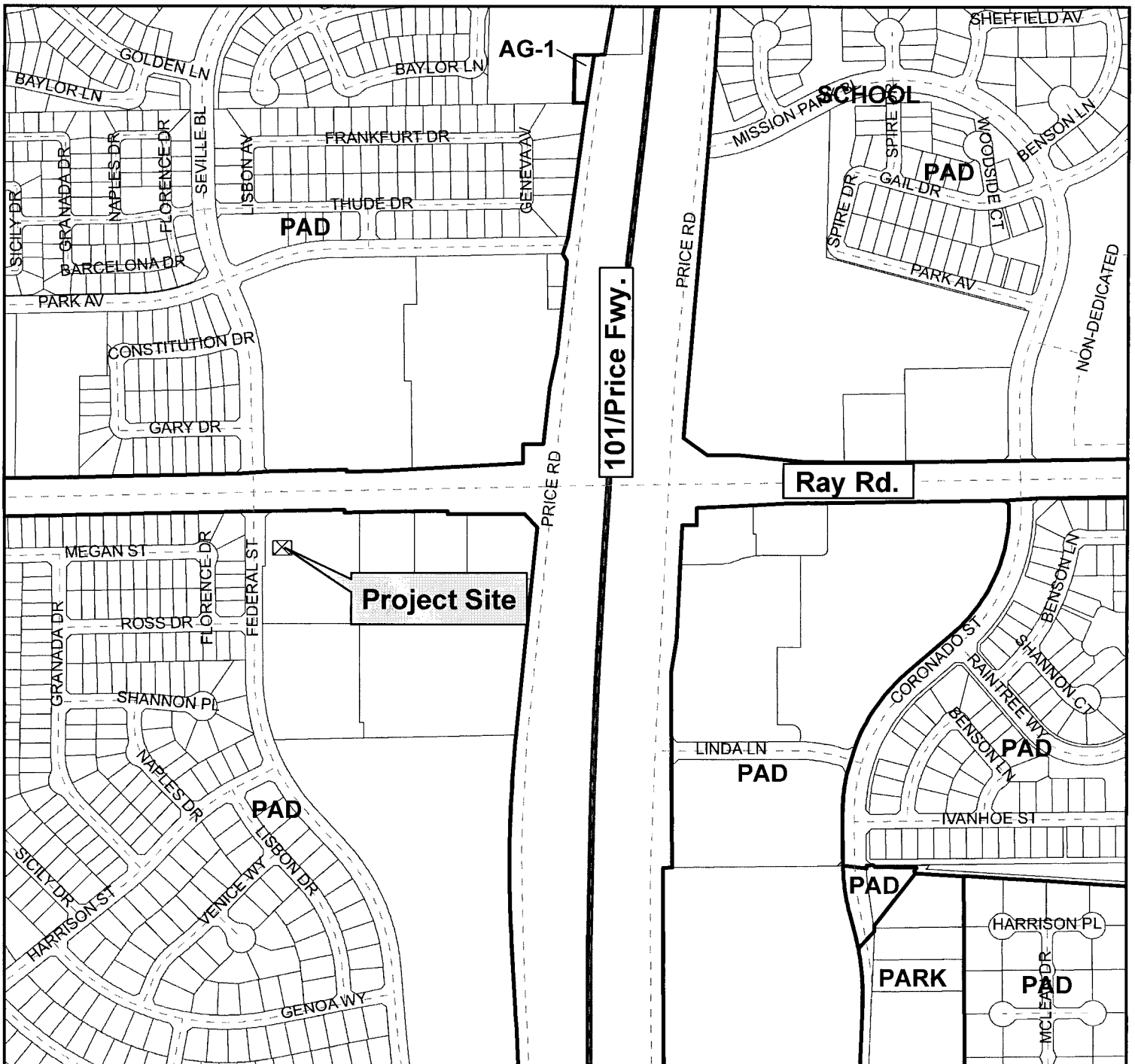
9. No noise shall be emitted from the live music occurring outdoors that exceeds the general level of noise emitted by uses outside the premises of the business and further will not disturb adjacent businesses and residential areas.
10. The site shall be maintained in a clean and orderly manner.
11. The establishment shall provide a contact phone number of a responsible person (bar owner and/or manager) to interested neighbors to resolve noise complaints quickly and directly.

PROPOSED MOTION

Motion to approve Liquor Use Permit, LUP13-0007 AMERICA'S TACO SHOP, for one year, subject to the conditions recommended by Planning Commission and Planning Staff.

Attachments

1. Vicinity Maps
2. Site Plan
3. Floor Plan
4. Narrative
5. Menu
6. Photos
7. Citizen Correspondence



Vicinity Map



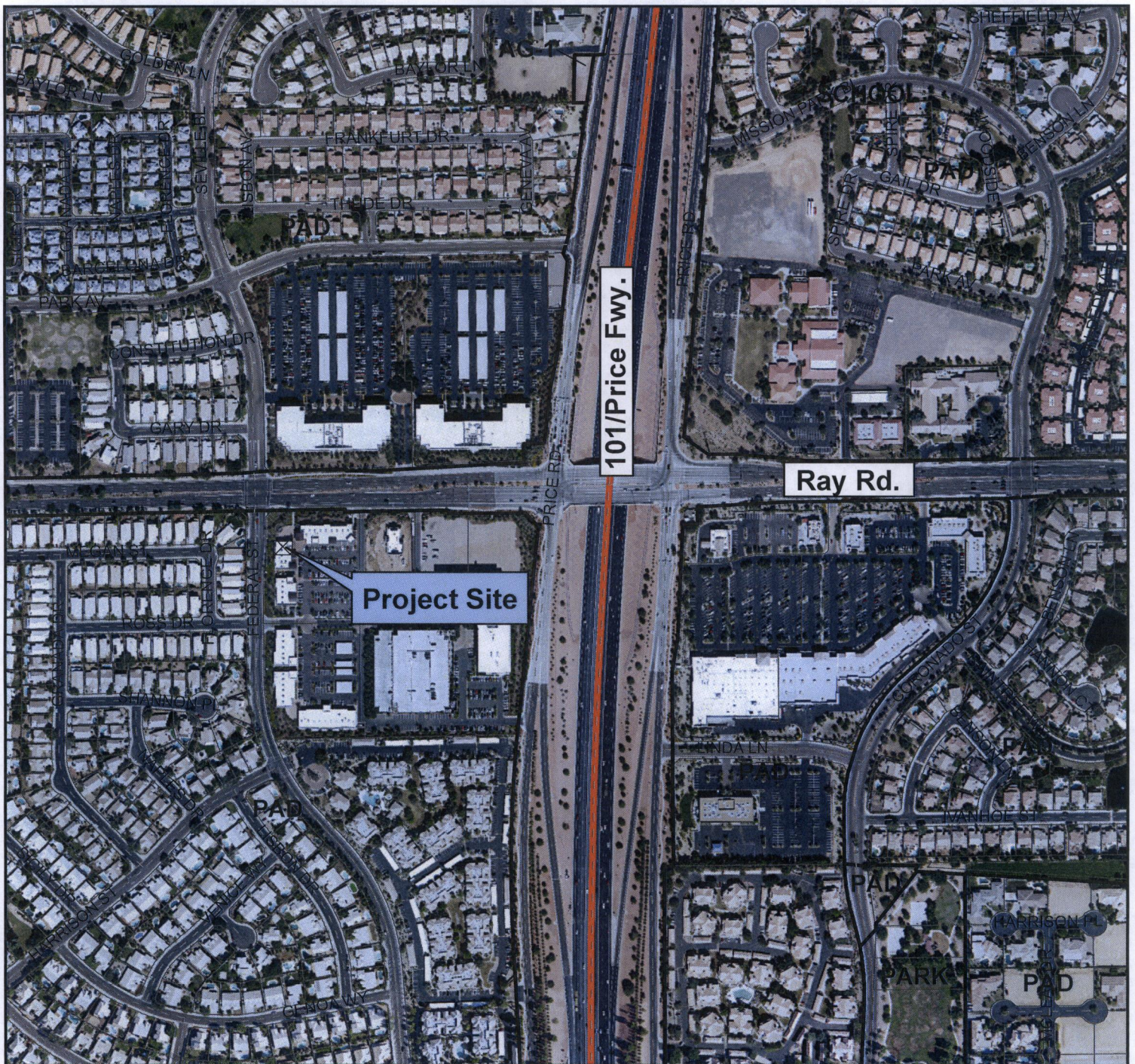
LUP13-0007

**America's Taco Shop
Liquor Use Permit**

CITY OF CHANDLER 5/22/2013



Chandler, Arizona
Where Values Make The Difference



Project Site

101/Price Fwy.

Ray Rd.

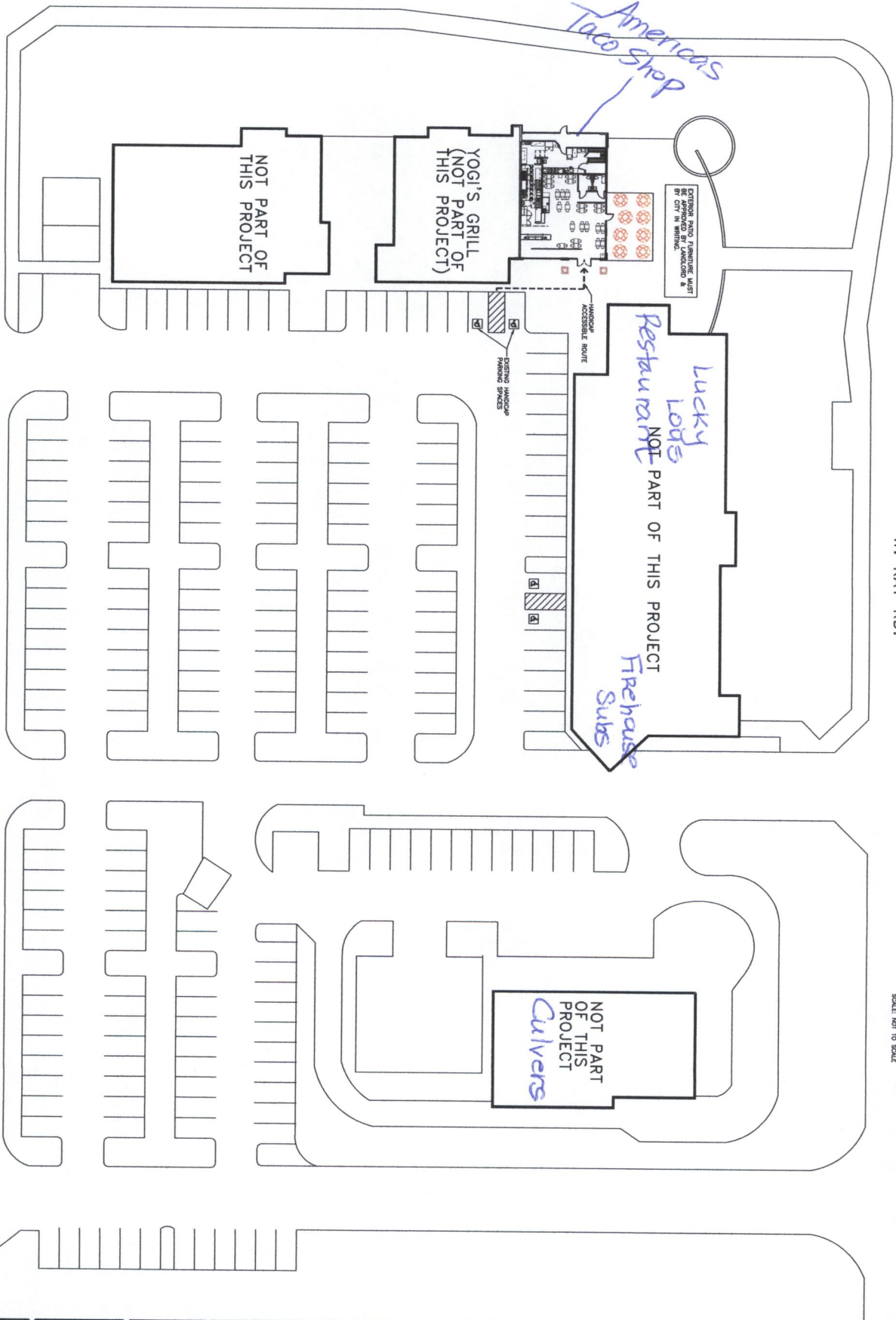
Vicinity Map



LUP13-0007

**America's Taco Shop
Liquor Use Permit**

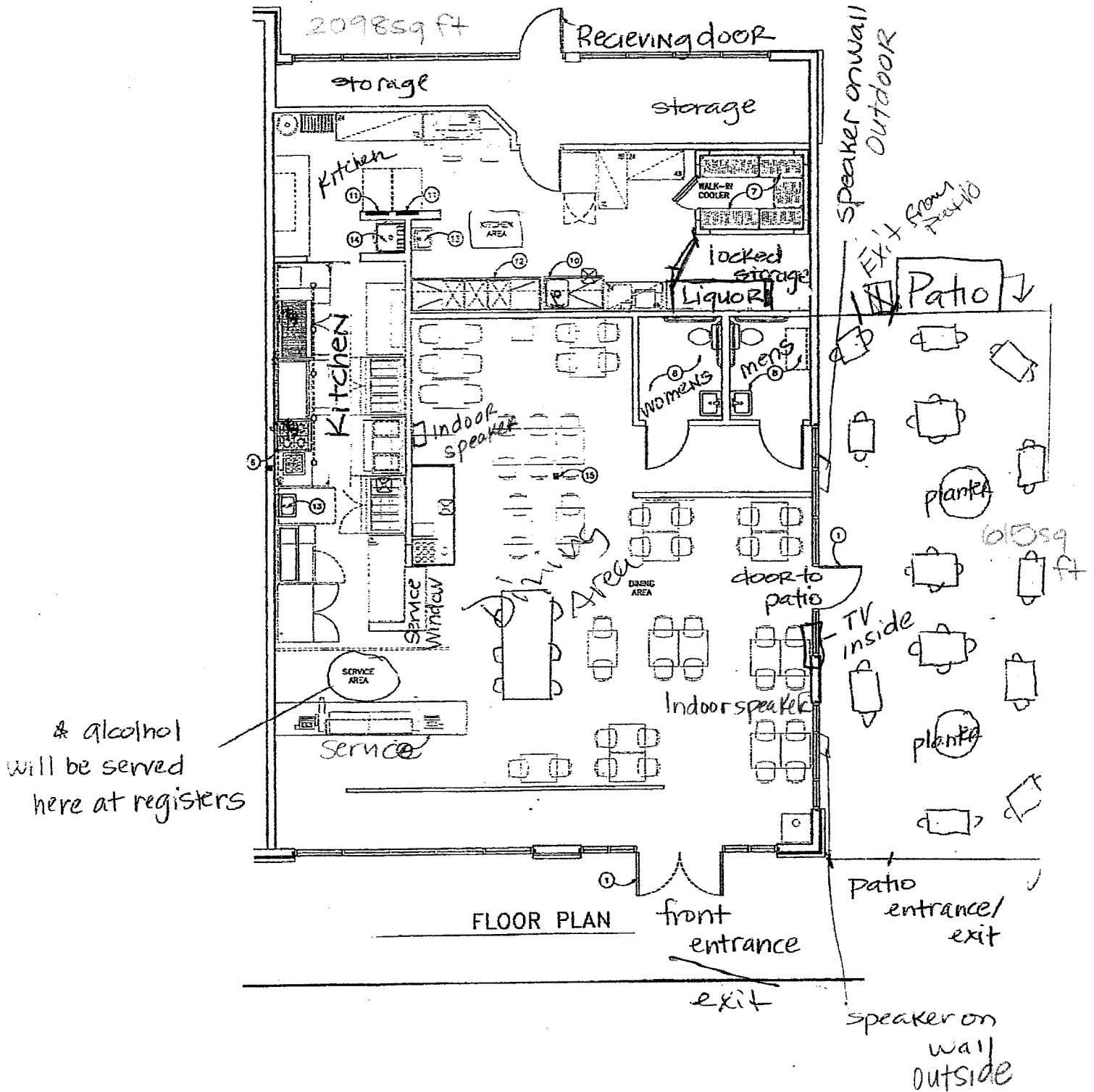
N. FEDERAL ST.



W. RAY RD.

SITE PLAN (REFERENCE ONLY)
SCALE: NOT TO SCALE

13 MAY 6 Lique. Lic. PM 3:27



June 11, 2013

To Whom it may concern:

We are requesting a Liquor Use Permit to allow liquor sales as permitted under a Series 12 liquor license for a new restaurant, America's Taco Shop located at 3235 W. Ray Road in Suite 1, Chandler, AZ 85226. The property is located in The Park at San Tan, on the southwest corner of Ray Road and Loop 101 Price Freeway. The business is a quick casual Mexican restaurant. We will have approximately 25-30 employees working for us. Our menu includes Burritos, Tacos, Quesadillas, and salads. We will serve beer and margaritas. The restaurant is approximately 2098 square feet in size on the interior with a 615 square foot gated outdoor uncovered dining area. The gate will be constructed of a black metal composite and be approximately 3 feet high. There is a door to the patio from inside the restaurant, and there are two gate doors on the outside. Refer to the diagram to see the locations.. There are additional improvements being done inside as follows: New service countertop, new hood and vent system, new Char-broiler/griddle, storage room build for liquor storage and wall painting. There are a total of 86 seats; 54 indoors and 32 outdoors. The business is open Monday-Sunday, from 9:00AM-8:00PM. There is one 32 inch television located inside that will have only news/sports on it, with no audio. There are two 12X6 inch speakers located on the inside of the restaurant, as well as two on the outdoor wall facing patio. All items are noted on the diagram. The music, both inside and out, will only be background and not audible to neighbors. There will be occasional acoustic music played on the patio on Thursday, Fridays, Saturdays, and major Holidays. The anticipated hours would range from 4:00PM-8:00PM. Music will comply of one-three persons and one amplifier maximum. We will be respectful of noise levels to homeowners and business neighbors. There are two low-light sconces placed by building management on the outside wall of patio. The patio complies with Smoke Free Arizona Law.

Regards,

Michael Moore

480-326-0527

CARNE ASADA

Carne asada is premium steak thinly sliced in-house daily, in a citrus based marinade and char-grilled over open flames

AL PASTOR

Al pastor is a slowly roasted, citrus spiced marinated pork thinly sliced & topped with fresh pineapple

CHICKEN

Chicken breast in a citrus based marinade and char-grilled over open flames

BREAKFAST BURRITOS

SERVED ALL DAY

CHORIZO BREAKFAST BURRITO

Flour tortilla, chorizo & potatoes scrambled with eggs, homeniade beans, jack cheese
Reg \$4.49 Lg \$5.49

CARNE ASADA BREAKFAST BURRITO

Flour tortilla, carne asada scrambled with eggs, jack cheese, onions, tomatoes, jalapenos
Reg \$4.49 Lg \$5.49

RANCHERO BREAKFAST BURRITO

Flour tortilla, eggs, jack cheese, onions, tomatoes, jalapenos Reg \$3.49 Lg \$4.49

BURRITOS & TACOS

CARNE ASADA BURRITO

Flour tortilla, carne asada, guacamole, caramelized onions, pico de gallo Reg \$5.95 Lg \$7.99

AL PASTOR BURRITO

Flour tortilla, al pastor, guacamole, lettuce, tomato sauce, cilantro, grilled pineapple Reg \$5.95 Lg \$7.99

CHICKEN BURRITO

Flour tortilla, chicken breast, guacamole, caramelized onions, tomatillo salsa, pico de gallo
Reg \$5.95 \$7.99

BEAN & CHEESE BURRITO

Flour tortilla, homemade beans (no lard), jack cheese
Reg \$3.35 Lg \$5.50

CARNE ASADA TACO

Corn tortilla, carne asada, guacamole, caramelized onions, lettuce 1 for \$2.35

AL PASTOR TACO

Corn tortilla, al pastor, guacamole, cabbage, tomato sauce, cilantro, grilled pineapple 1 for \$2.35

CHICKEN TACO

Corn tortilla, chicken breast, guacamole, lettuce, caramelized onions, tomato sauce, cilantro
1 for \$2.35

TORTAS & QUESADILLAS

CARNE ASADA TORTA

Toasted telera bread, carne asada, mayo, guacamole, lettuce, sliced tomato, jalapeños \$6.50

AL PASTOR TORTA

Toasted telera bread, al pastor, mayo, guacamole, lettuce, tomato sauce, cilantro, grilled pineapple \$6.50

CHICKEN TORTA

Toasted telera bread, chicken breast, mayo, guacamole, lettuce, tomato sauce, sliced tomato, jalapeños, cilantro \$6.50

CARNE ASADA QUESADILLA

Flour tortilla, carne asada, jack cheese, guacamole, caramelized onions, lettuce Reg \$4.95 Lg \$7.99

AL PASTOR QUESADILLA

Flour tortilla, al pastor, jack cheese, guacamole, lettuce, tomato sauce, cilantro, grilled pineapple
Reg \$4.95 Lg \$7.99

CHICKEN QUESADILLA

Flour tortilla, chicken breast, jack cheese, guacamole, caramelized onions, lettuce, tomato sauce, cilantro Reg \$4.95 Lg \$7.99

VEGETARIAN QUESADILLA

Flour tortilla, jack cheese, guacamole, caramelized onions, lettuce Reg \$3.50 Lg \$5.50

VAMPIROS & SIDES

CARNE ASADA VAMPIRO

Grilled corn tortilla, carne asada, jack cheese, guacamole, caramelized onions, lettuce \$3.75

AL PASTOR VAMPIRO

Grilled corn tortilla, al pastor, jack cheese, guacamole, lettuce, tomato sauce, cilantro, grilled pineapple \$3.75

CHICKEN VAMPIRO

Grilled corn tortilla, chicken breast, jack cheese, guacamole, caramelized onions, lettuce, tomato sauce, cilantro \$3.75

CHIPS & SALSA REGULAR OR SPICY

\$1.60

CHIPS & GUACAMOLE

\$5.95

GUACAMOLE TRIO

Chips, salsa and guacamole \$6.95

CUATRO

Chips, salsa, guacamole and homemade beans \$7.95

AMERICA'S CORN

Sweet ear of corn, lightly brushed with mayo and covered with cotija cheese on a stick, served with guacamaya sauce and lime \$2.35

GUACAMOLE SIDE

\$1.95

HOMEMADE PERUANO BEANS SIDE

\$1.60

ROASTED JALAPEÑO

Whole or diced for America's Way \$0.25

AMERICA'S HOMEMADE FLAN

\$3.95

AMERICA'S FAVORITE FOR TWO

2 tacos, 2 burritos, chips & salsa, and 2 20 oz. beverages \$19.99

AMERICA'S HOMEMADE CEVICHE

THURSDAY - SATURDAY ONLY

Diced fresh cooked white shrimp, tomatoes, cucumbers, red onions, serrano chiles, cilantro, fresh lime & guacamaya sauce, served with chips \$6.50

DRINKS

HOMEMADE AGUA FRESCA

Cold, traditional Mexican beverage in 3 flavors;

Horchata, Jamaica or Tamarindo

20 oz. \$2.25 32 oz. \$3.00

COCHATA

Iced Coffee & Horchata

20 oz. \$2.25 32 oz. \$3.00

COCA-COLA® DE MEXICO & MEXICAN SODA

\$3.00

FOUNTAIN SODA & FRESH BREWED ICED TEA

20 oz. \$1.60 32 oz. \$1.90

BOTTLED WATER

\$1.90

COFFEE

12 oz. \$1.60

JOIN US FOR AMERICA'S MARGARITAS
AND HAPPY HOUR SPECIALS DAILY!

*Please note menu items and prices are subject to change.



Photo 1. Front Entrance



Photo 2. Outdoor Patio, looking west



Photo 3. Looking west from Plaza



Photo 4. Southwest view from Plaza



Photo 5. North side of restaurant



Photo 6.



Photo 7. Federal Street & Ray Road, to Northwest



Photo 8. West to D'Arcy Ranch



Photo 9. D'Arcy Ranch, view from Plaza



Photo 10. View to East, from Federal Street to outdoor patio area



LUP13-0007 America's Taco Shop

jeffg.darcyranch to: Susan.Fiala@chandleraz.gov

07/22/2013 09:30 AM

From: <jeffg.darcyranch [REDACTED]>
To: "Susan.Fiala@chandleraz.gov" <Susan.Fiala@chandleraz.gov>
History: This message has been forwarded.

Hi Susan,

Thank you for the information you supplied. I would like to address the "Live Music" portion of the use permit application.

I attended the neighborhood meeting put on by the applicant. It was very informative and I greatly appreciate them taking the time to answer our questions.

During the meeting, there were a few things stated that caused me concern. The letter we received from the applicant stated that the application was for a "Series No. 12 Restaurant License". With-in the letter there was mention that they would also like to have "live acoustic music on occasion". The applicant stated that his vision was to have live music that would not interfere with normal conversation (a single guitar player playing softly). When asked if that meant there would be no amplified music, he replied that they would like to be able have amplified music on occasion. He also mentioned that they would like to bring in Mariachi bands for special occasions.

My concerns are these:

1) Noise levels. 2) Home Values

The little bit of research I have been able to do states that normal conversation is approximately 60 decibels. An acoustic guitar played with the fingers is 80 decibels (sources: <http://www.coolmath.com/decibels1.htm>, <http://www.gcaudio.com/resources/howtos/loudness.html>). (Note: I did not print the work cited because it is copyrighted). The charts also show that an increase in decibels of 10, doubles the noise level. At those levels, it seems hard to believe that the noise levels created by live music would not negatively impact the nearby homes and neighborhood.

The patio on which the applicant would like to have live music is laid out in such a way that there is less than 85 feet (Maricopa Assessor measuring tool) from the applicants property line to the nearest backyard wall in our neighborhood. There are also few barriers to deaden the sound.

Any noise is going to carry. In an outdoor setting, with groups of people in close proximity of each other, the tendency is to speak louder so you can be heard over the other people. One of the homeowners I spoke with lives approximately 8-9 houses to the West of Federal. He states that on a quiet night (low traffic), he can hear people talking on the patio of Lou's (next to applicant). Noise any louder than that will have an effect on the homeowners ability to enjoy their backyards. If someone wants to sit out in their backyard, they should not have to listen to the music a restaurant decides to play.

Aside from causing unwanted noise levels for homeowners in the area, it would also have the potential to affect home values. Homeowners that live along major and collector streets already see lower home values than similar homes that do not have road noise. By adding more noise to the area, it could affect home values further. And, because of the way homes are appraised, lower values for a few can affect the values of the entire neighborhood.

I would like to ask the City not to approve the "Live Music" portion of the use permit. If the request is allowed, I would suggest nothing more than a single guitar player with non-amplified music be allowed. Also, that the level of the sound be limited to 50 decibels at the sidewalk on the East side of Federal.

I appreciate your time and consideration in this matter.

Jeff Gobster, D'Arcy Ranch homeowner